



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*86 Chambers Street  
New York, NY 10007*

March 29, 2023

**BY ECF**

The Honorable Jesse M. Furman  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *People of the State of New York v. Arm or Ally, LLC et al.*, 22-cv-6124 (JMF)

Dear Judge Furman:

This Office represents the United States of America (the “Government”), which is not a party to the above-captioned action. The Government writes in response to the Court’s March 27, 2023 Order (ECF No. 162) extending the defendants’ time to respond to New York’s Second Amended Complaint.

The Government previously noted (ECF No. 115) the defendants’ January 18, 2023 filing of a notice pursuant to Federal Rule of Civil Procedure 5.1 (ECF No. 112). Under Fed. R. Civ. P. 5.1(c), the Government had until March 20, 2022, or a later date if set by the Court, to determine whether or not to intervene. After New York sought leave and an extension to file its Second Amended Complaint, the Government sought and received an extension of its decision whether or not to intervene until June 2, 2023, or 60 days after the defendants’ responses were then due. (ECF Nos. 153, 154.)

As previously noted, the United States is currently engaged in a formal review process to determine whether to intervene in the case pursuant to Rule 5.1(c) and/or Rule 24(b)(2), file a statement of interest pursuant to 28 U.S.C. § 517, or take no action. Any decision on whether the United States will seek to intervene will be made by the Solicitor General of the United States. *See* 28 C.F.R. § 0.21 (“The Solicitor General may in consultation with each agency or official concerned, authorize intervention by the Government in cases involving the constitutionality of acts of Congress.”). The undersigned is preparing a draft recommendation memorandum for the Assistant Attorney General of the Civil Division about whether to request Solicitor General authorization to intervene, but is unable to finalize such memorandum until it has had an opportunity to review the operative complaint and the filings submitted in connection with the defendants’ contemplated motion to dismiss. The Solicitor General’s Office typically requires 30 to 60 days to review and act upon such requests and supporting memoranda.

Because the defendants' deadline to respond to the Second Amended Complaint is now April 19, 2023, the Government respectfully requests that its deadline to determine whether to intervene pursuant to Rule 5.1(c), as well as any potential intervention under Rule 24(b)(2), be extended to sixty days after the date by which Defendants must respond to the Second Amended Complaint, or June 20, 2023.

This is the Government's second request for an extension of time to intervene. All parties other than Indie Guns, LLC consent to this request.

I thank the Court for its attention to this matter.

Respectfully,

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Southern District of New York

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